

US 10/553,661
Attorney Docket No. 50680-6
Page 6/8

REMARKS

I. Amendments

The specification is amended at page 79 to specify the SEQ ID Nos of the siRNAs.

Claims 1-4, 8-10 and 57-68 will be pending once the amendment is entered. The amended set of claims finds support in the specification as originally filed, as follows:

Amended / new claim	Original claim
1	1 & 6
2	2 & 6
3	3 & 6
4	4 & 6
8	6 & 8
9	6 & 9
10	10 & 16
57	5
58-61	--
62	11
63	12
64	13
65	14
66	15
67-68	--

Support for certain other elements and aspects is as follows:

- "cervical cancer": page 3 lines 1-24, page 7 lines 1-15, page 87 lines 23-27, page 94 lines 15-31, page 102 (Example 3), Figure 9.
- "using an antibody specifically reactive to hPygo2 protein": original claims 11 and 16.
- "using a polynucleotide capable of binding to hPygo2 gene or to a part of hPygo2 gene": original claims 12 and 16.
- Wherein "the biological sample comprises [certain cancer] cells": page 4 line 28 to page 5 line 2, page 67 lines 19-23.

US 10/553,661
Attorney Docket No. 50680-6
Page 7/8

The amendments do not add subject matter beyond the application as originally filed.
Entry of the amendments by the Examiner is respectfully requested.

II. Restriction

Applicants provisionally elect Group 2 (claims 1-4, 6, 7, 9 and 10), drawn to methods of determining the presence or absence of a cancer in a patient comprising determining the level of Pygopus protein, with traverse.

The Examiner asserts that the claims lack unity and that there are 7 Inventions (Groups 1-7) because the Groups do not relate to a single general inventive concept under PCT Rule 13.1. The Examiner asserts that the technical feature linking Inventions 1-7 is simply "Pygopus" and that since Pygopus is a known gene, there is no special technical feature linking the inventions. Applicants traverse.

The relevant Rules and practice under the PCT are Rules 13 and Annex B of the Administrative Instructions Under the PCT, set out below.

Rule 13.2 PCT states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those Inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. [emphasis added]

Annex B (unity of invention) of the Administrative Instructions Under the PCT states:

(c) **Independent and Dependent Claims.** Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By "dependent" claim is meant a claim which contains all the features of another claim and is in the same category of claim as that other claim (the expression "category of claim" referring to the classification of claims according to the subject matter of the invention claimed for example, product, process, use or apparatus or means, etc.).

(i) If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention. Equally, no problem arises in the case of a genus/species situation where the genus claim avoids the prior art. Moreover, no problem arises in the case of a combination/subcombination situation where the subcombination claim avoids the prior art and the

US 10/553,661
Attorney Docket No. 50680-6
Page 8/8

combination claim includes all the features of the subcombination. [emphasis added]

Applicants submit that the technical feature linking Inventions 1-7 is not simply "Pygopus". As is made clear in the Background of the Invention, at page 1 line 28 to page 2 line 2, the problem being faced "was to determine how to use human Pygopus in cancer diagnostic and therapy." The special technical feature is the use of Pygopus gene in cancer diagnostic and therapy, not the Pygopus gene per se.

As set out in Annex B, the independent claims must avoid the prior art in order to have unity. As explained below, the independent claims do avoid the prior art.

Thompson et al. Nature Cell Biology 4:367-373 was published online on April 22, 2002. This is less than one year prior to the U.S. filing date of the instant application (USSN 60/463309 filed April 17, 2003). Thompson et al. is not prior art.

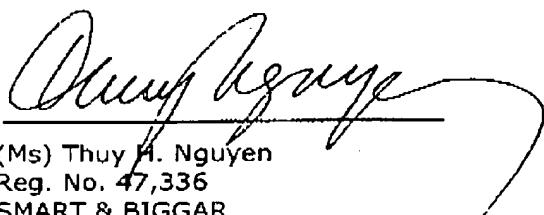
US patent 5,474,796 (Brennan) discloses arrays of oligonucleotides for conducting a large number of chemical reactions on a support surface. Brennan does not disclose or suggest anything relating to the use of Pygopus gene in cancer diagnostic and therapy.

Accordingly, the claims have unity because they are linked as to form a single general concept which is novel and inventive over the prior art. The Examiner is urged to examine all the pending claims.

If there are any fees due in connection with the filing of this Amendment, please charge the fees to our Deposit Account Number 19-2550.

Respectfully submitted,

Date: Feb 27, 2007



(Ms) Thuy H. Nguyen
Reg. No. 47,336
SMART & BIGGAR
P.O. Box 2999, Station D
900 - 55 Metcalfe Street
Ottawa, Ontario Canada K1P 5Y6
tel. (613) 232-2486 fax. (613) 232-8440